I	TO THE HONORABLE SENATE:	
2	The Committee on Government Operations to which was referred Senate	
3	Bill No. 250 entitled "An act relating to enhanced administrative and judicia	
4	accountability of law enforcement officers" respectfully reports that it has	
5	considered the same and recommends that	
6	Sec. 1. 20 V.S.A. § 2366 is amended to read:	
7	§ 2366. LAW ENFORCEMENT AGENCIES; FAIR AND IMPARITAL	
8	POLICING POLICY; RACE DATA COLLECTION	
9	* * *	
10	(e)(1) On or before September 1, 2014 2022, every State, county, and	
11	municipal law enforcement agency shall collect all data concerning law	
12	enforcement encounters, including roadside stop data consisting of the	
13	following:	
14	(A) the age, gender, and race of the driver;	
15	(B) the grounds for the stop;	
16	(C) the grounds for the search and the type of search conducted, if	
17	any;	
18	(D) the evidence located, if any;	
19	(E) the outcome of the stop, including whether physical force was	
20	employed or threatened during the stop, and if so, the type of force employed	
21	and whether the force resulted in bodily injury or death, and whether:	

1	(i) a written warning was issued;
2	(ii) a citation for a civil violation was issued;
3	(iii) a citation or arrest for a misdemeanor or a felony occurred; or
4	(iv) no subsequent action was taken.
5	(2) Law enforcement agencies shall work with the Executive Director of
6	Racial Equity, the Criminal Justice Council, and a vendor chosen by the
7	Council with the goals of collecting uniform data, adopting uniform storage
8	methods and periods, and ensuring that data can be analyzed. Roadside stop
9	data, as well as reports and analysis of roadside stop data, shall be public.
10	(3) On or before September July 1, 2016 2023 and annually thereafter,
11	law enforcement agencies shall provide all data collected by the agency,
12	including the data collected under this subsection, to the Executive Director of
13	Racial Equity and the vendor chosen by the Criminal Justice Council under
14	subdivision (2) of this subsection or, in the event the vendor is unable to
15	continue receiving data under this section, to the Council. Law enforcement
16	agencies shall provide the data collected under this subsection in an electronic
17	format specified by the receiving entity.
18	(4) The data provided pursuant to subdivision (3) of this subsection shall
19	be posted electronically in a manner that is analyzable and accessible to the
20	public on the receiving agency's website and clear and understandable. The
21	receiving agency shall also report the data annually to the General Assembly.

1	(5) Annually, on or before July 1, all law enforcement agencies shall
2	report the data collected pursuant to subdivision (3) of this subsection to the
3	House Committee on Government Operations and the House and Senate
4	Committees on Judiciary. The report shall detail how the data is collected;
5	how the data is accessible; how the data is used by the law enforcement
6	agency; a review of the data to determine if additional data criteria is needed;
7	and any recommendations to improve data collection and use.
8	(5)(6) As used in this subsection, "physical force" shall refer to the force
9	employed by a law enforcement officer to compel a person's compliance with
10	the officer's instructions that constitutes a greater amount of force than
11	handcuffing a compliant person.
12	* * *
13	Sec. 3. 20 V.S.A. § 2371 is added to read:
14	§ 2371. LAW ENFORCEMENT OFFICER INFORMATION DATABASE
15	(a) Purpose. The purpose of this section is to create a law enforcement
16	officer information database that catalogues potential impeachment
17	information concerning law enforcement agency witnesses or affiants and
18	enables a prosecutor to disclose such information consistently and
19	appropriately under the obligations of Giglio v. United States, 405 U.S. 150
20	(1972), and its progeny.

1	(b) Database. The Vermont Criminal Justice Council shall maintain a		
2	database cataloging any potential impeachment information concerning a law		
3	enforcement officer. Potential impeachment information may include:		
4	(1) any finding of misconduct that reflects upon the truthfulness or		
5	possible bias of the law enforcement officer, including a finding of a lack of		
6	candor during a criminal, civil, or administrative inquiry or proceeding;		
7	(2) any past or pending criminal charge brought against the law		
8	enforcement officer;		
9	(3) any allegation of misconduct bearing upon truthfulness, bias, or		
10	integrity that is the subject of a pending investigation;		
11	(4) any prior findings by a judge that a law enforcement officer testified		
12	untruthfully, made a knowing false statement in writing, engaged in an		
13	unlawful search or seizure, illegally obtained a confession, or engaged in other		
14	misconduct;		
15	(5) any misconduct finding or pending misconduct allegation that either		
16	cases a substantial doubt upon the accuracy of any witness, including witness		
17	testimony, that a prosecutor intends to rely on to prove an element of any crime		
18	charged, or that might have a significant bearing on the admissibility of		
19	prosecution evidence;		
20	(6) information that may be used to suggest that the law enforcement		
21	officer is biased for or against a defendant; or		

1	(7) information that reflects that the law enforcement officer's ability to	
2	perceive and recall truth is impaired.	
3	(c) Duty to report. A law enforcement agency's executive officer or	
4	designee shall report any information required to be cataloged under this	
5	section to the Council within 10 business days after discovering the	
6	information.	
7	(d) Accessibility. The database shall be accessible to the State's Attorney	
8	of any county of this State or designee and the Attorney General of this State	
9	or designee for the purpose of complying with the disclosure obligations of	
10	Giglio v. United States, 405 U.S. 150 (1972), and its progeny. This database	
11	shall not be accessible to anyone not listed in this subsection.	
12	(e) Confidentiality. The database, documents, materials, or other	
13	information in possession or control of the Council that are obtained by or	
14	reported to the Council under this section shall be confidential by law and	
15	privileged, shall not be subject to subpoena, and shall not be subject to	
16	discovery or admissible in evidence in any private civil action. The Council is	
17	authorized to use the database, or related documents, materials, or other	
18	information, in furtherance of the Council's official duties. Unless otherwise	
19	authorized by law, the Council shall not disclose the database or make related	
20	documents, materials, or other information public without the prior written	
21	consent of the law enforcement agency and the law enforcement officer.	

1	Neither the Council nor any person who received documents, materials, or	
2	other information shared under this section shall be required to testify in any	
3	private civil action concerning the database or any confidential documents,	
4	materials, or information subject to this section. Nothing in the section shall	
5	exempt the Council, a State's Attorney, or the Attorney General from	
6	disclosing public records pursuant to 1 V.S.A. chapter 5, subchapter 3.	
7	Sec. 4. 13 V.S.A. § 5585 is amended to read:	
8	§ 5585. ELECTRONIC RECORDING OF A CUSTODIAL	
9	INTERROGATION	
10	(a) As used in this section:	
11	(1) "Custodial interrogation" means any interrogation:	
12	(A) involving questioning by a law enforcement officer that is	
13	reasonably likely to elicit an incriminating response from the subject; and	
14	(B) in which a reasonable person in the subject's position would	
15	consider himself or herself the person to be in custody, starting from the	
16	moment a person should have been advised of his or her the person's Miranda	
17	rights and ending when the questioning has concluded.	
18	* * *	
19	(b)(1) A custodial interrogation that occurs in a place of detention	
20	concerning the investigation of a felony violation of ehapter 53 (homicide) or	
21	72 (sexual assault) of this title shall be electronically recorded in its entirety.	

1	(2) In consideration of best practices, law enforcement shall strive to
2	record simultaneously both the interrogator and the person being interrogated.
3	(c)(1) The following are exceptions to the recording requirement in
4	subsection (b) of this section:
5	(A) exigent circumstances;
6	(B) a person's refusal to be electronically recorded;
7	(C) interrogations conducted by other jurisdictions;
8	(D) a reasonable belief that the person being interrogated did not
9	commit a felony violation of chapter 53 (homicide) or 72 (sexual assault) of
10	this title and, therefore, an electronic recording of the interrogation was not
11	required;
12	(E) the safety of a person or protection of his or her identity; and
13	(F) equipment malfunction.
14	* * *
15	Sec. 5. STUDY ON DECEPTIVE AND COERCIVE METHODS OF LAW
16	ENFORCEMENT INTERROGATION; REPORT
17	(a) The Joint Legislative Justice Oversight Committee shall in its discretion,
18	select an organization, to submit a written report studying the use of deceptive
19	and coercive interrogation tactics employed by law enforcement in the State of
20	Vermont. In particular, the report shall study and provide recommendations:

1	(1) concerning when providing false facts about evidence to a suspect
2	during an interview conducted after the commission of a crime results in an
3	involuntary confession or admission to the crime;
4	(2) regarding when confessions or admissions to crimes procured by
5	providing a defendant with false facts should be inadmissible;
6	(3) concerning the appropriate age and circumstances to prohibit coercive
7	techniques in cases involving juveniles;
8	(4) concerning the use of the interrogation and interviewing techniques,
9	including the Reid Technique of Investigative Interviews and Advanced
10	Interrogation Techniques, by law enforcement; and
11	(4) and legislation, initiatives, or programs for the General Assembly and
12	law enforcement to consider to improve current practices.
13	(b) In preparation of the report, the Committee shall have the
14	administrative, technical, and legal assistance of its selected entity, the
15	Vermont Criminal Justice Council, the Council of State Government, and any
16	other stakeholders interested in assisting with the report.
17	Sec. 6. EFFECTIVE DATES
18	(a) Sec. 3 (law enforcement database) shall take effect on January 1, 2023.
19	(b) The remainder of this act shall take effect on July 1, 2022.
20	
21	

1			
2			
3	(Committee vote:)		
4			
5		Senator	

(Draft No. 1.3 – S.250)

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FOR THE COMMITTEE